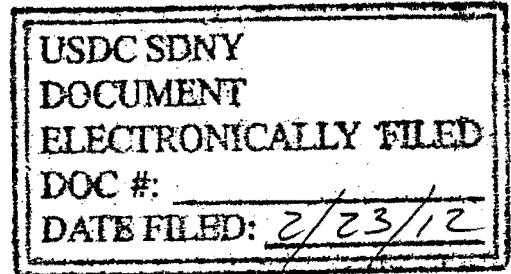


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
BLUE ANGEL FILMS LTD, ET AL.,  
Plaintiffs,



-against-

08 Civ. 6469 (DAB)  
ADOPTION OF REPORT  
AND RECOMMENDATION

FIRST LOOK STUDIOS, INC.,  
Defendant.

-----X  
DEBORAH A. BATTIS, United States District Judge.

This matter is now before the Court on the Report and Recommendation (the "Report") and Decision and Order (the "Decision") of Magistrate Judge James C. Francis IV, both entered on April 29, 2011, to which Plaintiffs have entered timely Objections.

Magistrate Judge Francis, in the Decision and the Report, decided several Motions made by Plaintiffs. Specifically, the Decision denied Plaintiffs' motion for contempt sanctions and granted Plaintiffs' motion to amend their complaint to name entities Plaintiffs believe to be alter egos of or successors to the originally-named Defendants. The Report addresses Plaintiff's motion for entry of a "non-final judgment" or, in the alternative, for entry of an Order of Attachment. The Report recommends that Plaintiffs' motion for judgment be denied. (Report at 2). Because Plaintiffs fail to identify any asset

owned by Defendants which would properly be subject to an order of attachment, the Report further recommends that no Order of Attachment be issued. (Report at 4.)

For the reasons set forth below, the Court having conducted the appropriate levels of review following the objections of Parties, the Report and Recommendation of Magistrate Judge Francis dated April 29, 2011 shall be adopted in its entirety. Accordingly, the Court DENIES Plaintiffs Motion for Entry of Judgment and Motion for Entry of an Order of Attachment.

The Court has also reviewed the Decision and Order of Magistrate Judge Francis dated April 29, 2011, to which Plaintiffs have objected to the Decision and Order "to the extent that the magistrate has denied the entry of an Order of attachment." (Obj. at 4.) Plaintiffs have not shown that any portion of Magistrate Judge Francis' Decision and Order is clearly erroneous or contrary to law. Accordingly, this Court affirms and ratifies the Decision and Order of Magistrate Judge Francis dated April 29, 2011.

#### I. Objections to the Decision and the Report

When a Magistrate Judge has issued a decision or order on a non-case dispositive pretrial matter, the reviewing district

court judge "may reconsider" that decision "where it is shown that the magistrate judge's order is clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a).

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The court may adopt those portions of the report to which no timely objection has been made, as long as there is no clear error on the face of the record. Wilds v. United Parcel Serv., Inc., 262 F.Supp.2d 163, 169 (S.D.N.Y. 2003). A district court must review de novo "those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). "To the extent, however, that the party makes only conclusory or general arguments, or simply reiterates the original arguments, the Court will review the Report strictly for clear error." Indymac Bank, F.S.B. v. Nat'l Settlement Agency, Inc., No. 07-CV-6865, 2008 WL 4810043, at \*1 (S.D.N.Y. Nov. 3, 2008); see also Ortiz v. Barkley, 558 F.Supp.2d 444, 451 (S.D.N.Y. 2008) ("Reviewing courts should review a report and recommendation for clear error where objections are merely perfunctory responses, argued in an attempt

to engage the district court in a rehashing of the same arguments set forth in the original petition.") (citation and internal quotation marks omitted). After conducting the appropriate levels of review, the Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate. 28 U.S.C. § 636(b)(1)(C).

Plaintiffs filed timely Objections to the Report and the Decision "to the extent that the magistrate has denied the entry of an Order of attachment."<sup>1</sup> (Obj. at 4.) However, these objections merely reiterate arguments which were already fully briefed and do not trigger de novo review. More importantly, Plaintiffs neither rebut nor even address the Report's finding that they have failed to identify with specificity any asset owned by Defendants which would properly be the object of an order of attachment. Because attachment is an in rem remedy, the failure to identify an asset which may be attached is fatal to Plaintiffs' request for an order of attachment. That request is

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<sup>1</sup>Plaintiffs also contend that the magistrate "err[ed] by Ordering the plaintiffs to provide a damage analysis against [Defendant First Look Studios]. . ." (Obj. at 4.) Though the Decision requires Plaintiffs to submit proposed findings of fact and conclusions of law, neither the Report nor the Decision makes reference to a "damage analysis." To the extent Plaintiffs' objection to the requirement of a damages analysis may be construed as an objection to the Decision's requirement that they submit proposed findings of fact and conclusions of law, the Court finds no clear error in the Decision.

therefore DENIED.

## II. Conclusion

Having conducted the appropriate levels of review of the Report and Recommendation and of the Decision and Order of United States Magistrate Judge James C. Francis, both entered on April 29, 2011, this Court APPROVES, ADOPTS, and RATIFIES the Report and the Decision in their entirety. Accordingly, Plaintiff's motion for the entry of an Order of Attachment is DENIED.

SO ORDERED.

Dated: New York, New York  
2/23/12, 2012

A handwritten signature in cursive script, reading "Deborah A. Batts", is written over a horizontal line.

Deborah A. Batts  
United States District Judge